Mitigation Banking and the New Mitigation Rule

What We Know

- New rule governs.
- All banks approved on/after July 9, 2008, must comply with the new rule.
- Banks approved before July 9, 2008, may continue to operate under their instruments.
- Any modification to a BI requires that the BI be made consistent with the new rule.

What USACE Will Do

- **Mitigation Bank Guidelines will be revised through coordination with the Interagency Review Team (IRT), formally called the MBRT.**
- **Corps is the decision maker but must consider the IRTs comments or follow dispute resolution process.**

Changes

Most changes to Savannah District's program are minor.

Terminology

Savannah District

Some terminology will change. 12 required parts of the BI are;

- **Objectives**
- **Site selection**
- **Site protection instrument**
- **Baseline information**
- **Determination of credits**
- **Mitigation work plan**
- **Maintenance plan**
- **Performance standards**
- **Monitoring requirements**
- **Long-term management plan**
- **Adaptive management plan**
- **Financial assurances**
- **Default and closure provision**

Long Term Management

Discuss why long term management is or is not included. Regular control burning, pumps to maintain hydrology, etc., would require long term management.

Financial Assurances

Discuss why financial assurances are or are not included. If the proposed mitigation has a high likelihood of success and mitigation bank credits would not be released until a certain level of success had been achieved, financial assurances may not be required.

Approval Timelines

Corps and IRT must follow timelines for BI approval process. Our fastest bank approvals have taken 231 days (including applicant response time). The new rule timeline requires 225 days (not including applicant response time).

BUT… the new rule does not give us more people or more time.

Challenging Changes

- **Preservation**
- **Watershed Approach**

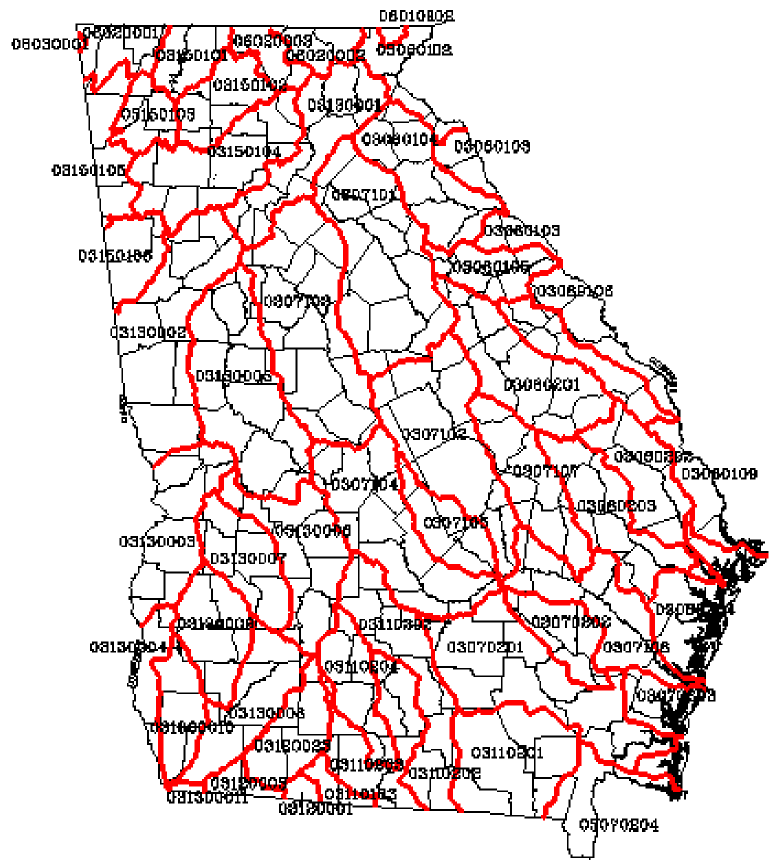
Preservation

No 50/50 rule but preservation must;

1. **Important physical, chemical, or biological functions.**
2. **Contribute significantly to ecological sustainability.**
3. **Be appropriate and practicable.**
4. **Under threat of destruction or adverse modification.**
5. **Protected through a Restrictive Covenant.**

A Watershed Emphasis

Savannah District



The Watershed Approach

Savannah District

An analytical process to best addresses aquatic resource needs within a particular watershed. A landscape perspective is used to best identify the type and location of mitigation to best benefit the watershed(s) and off-set losses across a suite of aquatic resource functions and services. Landscape scale, historic and potential aquatic resource conditions, past and projected aquatic resource impacts in the watershed, and terrestrial connections between aquatic resources should be considered. Examples include;

The Watershed Approach

Savannah District

- water quality needs
- past growth
- aquatic resource impacts
- impervious surface
- future growth
- aquatic resource impacts and impervious surface
- conservation preservation areas

- wildlife corridors
- 303(d) listed streams
- Designated Trout Waters
- Essential Fish Habitat
- Threatened and Endangered Species
- Zoning
- Land Cover and impervious surface
- ?

Questions?